IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO No.222 of 2000

Decided on:November 22, 2006

New India Assurance Company. …..Appellant.

VERSUS

Sushil Mohan & Ors. …..Respondents.

Coram

The Hon'ble Mr.Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellant: **Mr.K.D.Sood with Ms.Sunita Sharma Advocates.**

For Respondents No.1 to 3: **Mr.Ramakant Sharma, Advocate.**

Surjit Singh, Judge (Oral).

Heard and gone through the record.

2. This appeal, by the Insurance Company, is directed against the award of Motor Accident Claims Tribunal, Hamirpur, passed on an application, under Section 166 of the Motor Vehicles Act, whereby a sum of Rs.1,90,000/- has been awarded as compensation for the death of Subhash Mohan, one of the co-owners of the vehicle, in the accident of which his death allegedly took place. The compensation money has been ordered to be paid by the appellant / Insurance Company.

3. The main contention raised on behalf of the appellant is that the policy, which had been purchased in respect of the vehicle, in

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

question, by deceased Subhash Mohan, as one of the co-owners of the Tractor, did not cover his own risk. Copy of the policy is Ext.R-1 on the record of the Tribunal. Apparently no premium had been charged for covering the risk of the insured. The statute, i.e. Motor Vehicles Act, does not require the covering of risk of the insured. Now, if the policy does not cover the risk of the insured and deceased was himself one of the two insured, being a co-owner of the vehicle, and the statute also does not mandate the covering of the risk of the owner of the vehicle, the appellant could not have been ordered to pay the compensation money.

4. As a result of the above stated position, appeal is accepted. The impugned award, to the extent it orders the appellant to pay the compensation, is set aside.

(Surjit Singh)
Judge.

November 22, 2006
(soni)